



PUBLIC NOTICE

Federal Communications Commission
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DA 14-529
April 21, 2014

DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF TOTAH COMMUNICATIONS, INC.

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 14-61

Comments Due: May 5, 2014

Reply Comments Due: May 12, 2014

On April 7, 2014, The Estate of Jesse Robert Gailey, Deceased (Gailey Estate) and Totah Communications, Inc., (Totah), (collectively, Applicants) filed an application pursuant to section 63.03 of the Commission's rules¹ to distribute Mr. Gailey's majority interest in the stock of Totah to the Jesse R. Gailey 1989 Revocable Trust (the Trust) and to his three surviving sons: Mark Mitchell Gailey, Matthew Scott Gailey and Michael Robert Gailey.

Totah, an Oklahoma corporation, provides local exchange telephone service and broadband services to eight rural exchanges (approximately 1,498 access lines) in Nowata, Osage, Rogers and Washington counties in northeastern Oklahoma; and to six rural exchanges (approximately 804 access lines) across the state line in Chautauqua and Montgomery Counties in southeastern Kansas.

Total Customer Services, Inc. (TotalCSI), an Oklahoma corporation that is a wholly-owned subsidiary of Totah, provides long distance toll services and rate plans, and high speed digital subscriber line (DSL) Internet access services to customers within Totah's local exchange services areas. BartNet IP LLC, an Oklahoma limited liability company that is wholly-owned by Totah, provides high-speed wireless internet services in and around the communities of Nowata, Pawhuska, Bartlesville, Dewey and Copan, Oklahoma. Totalcom of Kansas, Inc., an Oklahoma corporation that is wholly-owned by Totah, holds non-controlling ownership interests in Kansas Independent Telecommunications, LLC, which provides Internet service and customer support services in Kansas, and the Kansas Fiber Network, which provides transport and switching for long distance, Internet and other traffic in Kansas. The following U.S. citizens own ten percent or more of the equity and voting power of Totah prior to the proposed transaction: Estate of Jesse Robert Gailey (Deceased) (54.0388 percent), Estate of Barbara Jane Foster (Deceased) (26.8484 percent), and Shan Gene Gailey (15.2625 percent). No other entity owns or controls ten percent or more of the equity and voting power of Totah.

¹ 47 C.F.R § 63.03; *see* 47 U.S.C. § 214.

The proposed transaction entails the distribution of Jesse Robert Gailey's 54.0388 percent controlling interest in Totah stock to the Jesse R. Gailey 1989 Revocable Trust and to his three surviving sons: Mark Mitchell Gailey,² Matthew Scott Gailey and Michael Robert Gailey (Gailey Sons (all are U.S. citizens)). The initial distribution will go to the Trust, and the Trust will, at or about the same time, distribute approximately one-half of Mr. Gailey's Totah stock – in three equal portions – directly to the Gailey Sons. Subsequently, in 2019 and 2024, the remainder of the Trust's interest in the stock will be distributed in equal shares directly to the Gailey Sons. Ultimately, with the distribution of the stock of Jesse Robert Gailey and the stock of his recently deceased sister Barbara Jane Foster, all of the stock will be held by the Gailey family but no single individual will own more than a non-controlling 26.8484 percent amount.³ Applicants assert that the proposed transaction is entitled to presumptive streamlined treatment under section 63.03(b)(1)(ii) of the Commission's rules and that a grant of the application will serve the public interest, convenience, and necessity by permitting the continued operation of Totah, to provide basic and advanced telecommunications services to its rural Oklahoma and Kansas customers and other service areas.⁴

Domestic Section 214 Application Filed for the Transfer of Control of
Totah Communications, Inc., WC Docket No. 14-61 (filed Apr. 7, 2014).

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 63.03(a) of the Commission's rules, 47 CFR § 63.03(a), interested parties may file comments **on or before May 5, 2014**, and reply comments **on or before May 12, 2014**. Pursuant to section 63.52 of the Commission's rules, 47 C.F.R. § 63.52, commenters must serve a copy of comments on the Applicants no later than the above comment filing date. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.

Pursuant to section 63.03 of the Commission's rules, 47 CFR § 63.03, parties to this proceeding should file any documents in this proceeding using the Commission's Electronic Comment Filing System (ECFS): <http://fjallfoss.fcc.gov/ecfs2/>.

In addition, e-mail one copy of each pleading to each of the following:

- 1) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
- 2) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, dennis.johnson@fcc.gov;
- 3) David Krech, Policy Division, International Bureau, david.krech@fcc.gov; and
- 4) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

² Mark Mitchell Gailey is the President of Totah.

³ Detailed ownership percentages for Totah after the initial and final distributions are available in the Application.

⁴ 47 C.F.R. § 63.03(b)(1)(ii).

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The proceeding in this Notice shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b), 47 C.F.R. § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules.

For further information, please contact Tracey Wilson at (202) 418-1394 or Dennis Johnson at (202) 418-0809.

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